

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA

v.

**MATTHEW CONNOLLY and
GAVIN CAMPBELL BLACK,**

Defendants.

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No. 1:16-CR-00370 (CM)

**MOTION FOR LEAVE TO FILE CERTAIN PORTIONS OF GOVERNMENT’S
KASTIGAR RESPONSE AND EXHIBITS UNDER SEAL**

The United States of America, by and through its undersigned attorneys, respectfully requests leave of the Court to file several sentences of its response to Defendants’ motion for a *Kastigar* hearing and three exhibits to that response under seal. Specifically, we seek permission to file the following under seal: 1) several sentences in the brief that discuss the substance of Defendant Gavin Black’s testimony before the U.K.’s Financial Conduct Authority (“FCA”); 2) a full transcript of Defendant Black’s FCA testimony on October 3, 2013; 3); a letter from the FCA addressing the scope of any disclosures it has made of Mr. Black’s testimony under seal; and 4) the F.B.I. interview report (“302”) of Defendant Black’s voluntary interview with the Department of Justice on October 1, 2013.

To date, not a single member of the prosecution team has not been exposed to Mr. Black’s FCA testimony or its substance. Nor have any witnesses that the government expects to call at trial been exposed to his testimony or its substance. Accordingly, filing under seal those sentences of the brief that discuss the substance of Defendant Black’s FCA testimony, as well as the full transcript of his FCA testimony, will preserve this status quo and protect against any exposure in the future. Moreover, the FCA treats all testimony it compels as “confidential information” under

Section 348 of the U.K. Financial Services and Markets Act and has requested that the United States file the transcript under seal, as well as their letter concerning any disclosures of the transcript. Finally, with respect to the Defendant Black's 302 interview report, because it contains statements of the defendant concerning the conduct at issue in this case, the United States submits that it is appropriate to file them under seal to keep them out of the public domain during these pretrial proceedings.

The undersigned conferred with counsel for the defense concerning their position on this motion. Defendants oppose a sealing or protective order over the FCA transcript.

For the foregoing reasons, the United States seeks leave to file the above-listed items under seal.

Respectfully submitted,

Sandra Moser
Acting Chief, Fraud Section

By: /s/ D. Brittain Shaw
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CERTIFICATE OF SERVICE

I certify that a true and correct copy of this motion was filed and served electronically via the ECF system on counsel for the defendants on August 25, 2017.

/s/ D. Brittain Shaw

D. Brittain Shaw

Trial Attorney

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
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	:	

PROPOSED ORDER

Upon consideration of the United States’ Motion for Leave to File Certain Portions of the Government’s *Kastigar* Response and Exhibits Under Seal, it is hereby ORDERED that the Motion shall be GRANTED.

SO ORDERED.

HONORABLE COLLEEN MCMAHON
CHIEF UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF NEW YORK